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TAGS: [PREL](#) [UNSC](#) [IZ](#)
SUBJECT: DEMARCHE REQUEST: DFI/IAMB ARRANGEMENTS

Classified By: IO Assistant Secretary Esther Brimmer,
For Reasons 1.4 (b) and (d)

[1](#)1. (U) This is an action request. Please see paras 4 and 5.

Background

[1](#)2. (U) In Article 26 of the U.S.-Iraq Security Agreement, the United States pledged to support Iraq's efforts to extend, temporarily, UN-mandated arrangements for the Development Fund for Iraq (DFI). The United States also pledged, in Article 25 of that agreement, to help the Government of Iraq (GOI) take steps to return Iraq to the legal and international standing it enjoyed prior to the adoption of UNSCR 661 (1990).

[1](#)3. (S) The current arrangements for the DFI (including international monitoring, the requirement to deposit funds, and special immunities for the DFI: Iraq's oil and gas exports, and the proceeds therefrom) are set to expire on 31 December 2009, per UNSCR 1859. Iraq has not yet requested an extension of these provisions, but in each of the last four years requested extensions at the eleventh hour, requiring an emergency session of the UNSC. It is likely that Iraq will require another extension of the DFI arrangements through 2010, but this year faces significant opposition within the UNSC (particularly from Russia and the UK). Achieving another one-year extension of the DFI arrangements will require convincing the UNSC that this will be the last extension, and that the GOI is seriously putting its financial affairs in order so as to obviate the need for immunities and special arrangements now associated with the DFI.

Action Request

[1](#)4. (S/REL) To that end, Embassy Baghdad is requested to demarche the GOI at the highest appropriate level to discuss a 12-month extension of arrangements for the DFI (and the related IAMB).

Talking Points

[1](#)5. (S/REL) Embassy Baghdad may draw on the following talking points:

-- As you are aware, UN-mandated arrangements for the Development Fund for Iraq (including international monitoring, the requirement to deposit funds, and special immunities for the DFI, Iraq's oil and gas exports, and the proceeds therefrom) are due to expire at the end of the year.

-- We are ready to work with you to ensure that appropriate follow-on mechanisms are in place before the expiration of the DFI.

Should Iraq reply that it requires an extension of DFI/IAMB arrangements:

-- Note in order to extend these arrangements, the UN Security Council (UNSC) would need to pass a new Chapter VII resolution. This will be difficult to obtain. As Security Council consultations on DFI/IAMB in August highlighted, and as UNSCR 1859 (2008) recognized, UNSC members are looking forward to the transition at the end of the year to successor arrangements for the DFI and IAMB.

-- We are willing to work with you to seek to convince UNSC members that you require a final one-year extension, but to assuage their concerns over an extension of these extraordinary DFI/IAMB arrangements, the GOI would be expected to commit to steps to accelerate Iraq's transition out of these extraordinary arrangements.

-- In discussions with the Department, your government has consistently identified outstanding Saddam Hussein-era claims of U.S. victims as the principal justification for continued DFI protections. Although our governments have endeavored to resolve these claims on a state-to-state basis, no final agreement has yet been concluded. We thus urge you to reach by the end of the year an understanding with the United States for the resolution of these claims.

-- Closing all remaining Oil-for-Food (OFF) contracts (\$312 million) would go a long way toward demonstrating your commitment to putting your financial house in order and address the concerns of UNSC members that would otherwise oppose the extension (e.g., Russia). Settling all the remaining OFF contracts would trigger the release of \$603 million to the GOI, which would be the remainder of the \$915 million now held by the UN OFF Program after the remaining contracts are paid.

-- We applaud the creation of the Committee of Financial Experts (COFE) as a step toward ending the current DFI arrangements. However, more work needs to be done to improve COFE's capabilities to take over from the IAMB, and to ensure the independence of its members. Several of its members hold significant positions within the MOF and BSA, which present potential conflicts of interest. We would urge you to substitute other qualified members or otherwise address the conflict.

-- As a successor to the DFI, Iraq also needs to develop its plans for establishing a single fully audited and transparent petroleum revenue account for receiving all of its oil revenues. These arrangements must also openly and explicitly provide a mechanism for Iraq to continue honoring its UNSCR-based UNCC obligations to pay a percentage of its revenues to the UN Compensation Fund.

-- The need for Iraq to establish highly competent, impartial and accountable oversight and to consolidate all petroleum revenues into a single account is consistent with the provisions of the Iraqi Constitution that all national oil revenues be put to use equitably on behalf of all the Iraqi people. Such clear, transparent and accountable handling of all petroleum revenues is essential to binding the nation together and developing a strong and stable democracy in Iraq. We encourage you to take the steps necessary to increase the capacity and independence of COFE and offer our assistance in these endeavors.

Should Iraq reply that it does not require an extension of DFI/IAMB arrangements:

-- Inquire how the GOI is ensuring the appropriate follow-on mechanisms are put in place to allow for the transfer of obligations from the IAMB to COFE, and for UNCC payments at

the required percentage to continue to be transferred to the UN Compensation Fund. The international community can offer useful insights on alternative models that have been used in other countries.

-- Inquire as to what sort of follow-on mechanism to the DFI the GOI is going to use. Encourage the GOI to work with appropriate technical experts to ensure that the new mechanism is properly managed from both a fiscal and legal perspective.

-- Ask the GOI how the follow-on mechanism will ensure that UNCC payments are made to the UN Compensation Fund in a timely and transparent manner.

End Talking Points.
CLINTON